

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

-----X
PHILIP PIDOT, NANCY HAWKINS and STEVEN
AXELMAN, individually and as representatives of eligible
Republican Party voters in Suffolk, Nassau and Queens
Counties within New York's Third Congressional District,

Civil Action No.:
16-cv-00859

Plaintiffs,

-against-

**AFFIDAVIT IN
RESPONSE TO ORDER
TO SHOW CAUSE**

NEW YORK STATE BOARD OF ELECTIONS;
SUFFOLK COUNTY BOARD OF ELECTIONS;
NASSAU COUNTY BOARD OF ELECTIONS;
BOARD OF ELECTIONS IN THE CITY OF NEW
YORK; PETER KOSINSKI and DOUGLAS KELLNER,
in their official capacities as Commissioners and Co-Chairs
of the New York State Board of Elections; ANDREW J.
SPANIO and GREGORY P. PETERSON, in their official
Capacities as Commissioners of the New York State Board
of Elections; TODD D. VALENTINE and ROBERT A.
BREHM, in their official capacities as Co-Executive
Directors of the New York State Board of Elections;
and JACK MARTINS,

Defendants.

-----X
State of New York)
 : ss.:
County of Suffolk)

ANITA S. KATZ, being duly sworn, deposes and says:

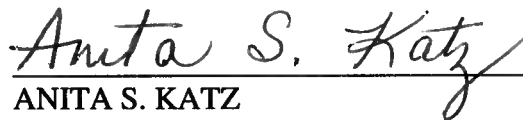
1. I am the duly appointed Democratic Election Commissioner of the County of Suffolk.
2. I make this affidavit to set forth my position concerning the relief requested by the plaintiffs, Philip Pidot, et al. for whatever consideration the Court deems appropriate.
3. Commissioner LaLota, the duly appointed Republican Election Commissioner of the County of Suffolk, and I agree that nothing is more important than those serving in the military receive their ballots in a timely manner. However, I am also mindful that, in a recent New York State Supreme Court decision, Mr. Pidot's designating petition was found to have more than the number of required valid signatures to place him in a Republican Party primary election for the

nomination for the public office of Representative in Congress for the Third Congressional District.


4. The Uniformed and Overseas Citizens Absentee Voting Act as amended in 2009 by the Military and Overseas Voter Empowerment Act (UOCAVA) allows for a waiver of the 45 day requirement for the mailing of Military and Overseas ballots. In this matter, the Plaintiffs have requested that the Court allow a shortening of the 45-day UOCAVA requirement.

5. It is noted that if a waiver of the 45-day UOCAVA requirement were granted in the near future, the voters who signed the petition to create a primary would not be disenfranchised and military personnel eligible to vote in that primary would still receive the primary ballot in sufficient time. Should this court grant the requested relief, the Board of Elections can alert those members of the military that opt to receive their ballots on-line that it is forthcoming. As soon as the primary ballot is certified, the Board can inform those eligible that it is available for download. Under the circumstances presented, a shortening of the 45-day UOCAVA requirement is a reasonable compromise to preserve the franchise rights of both civilian voters and military voters alike.

WHEREFORE, it is respectfully requested that the foregoing be considered in connection with the granting of any relief upon the within motion.


ANITA S. KATZ
Commissioner of the Suffolk County Board of Elections

Sworn to and subscribed by each before me this 5th day of August, 2016


Notary Public
DEBORAH MONACO
Notary Public, State of New York
No. 01MO6092274 - Suffolk County
Term Expires May 19, 2019